



February 2, 2006

Mr. Dexter Thomas
EDI Comments
AMS, F&V, PACA Branch
1400 Independence Ave., SW., Room 2095-S
Washington, D.C. 20250-0242

Dear Mr. Thomas:

**Subject: Regulations under the Perishable Agricultural Commodities Act
(PACA), Docket FV-05-373**

As a PACA licensee, and manufacturer and distributor of fresh fruits and vegetables, Fresh Express Incorporated hereby submits this letter in connection with the notice in the Federal Register concerning electronic data interchange (EDI) when invoicing and seeking protection under the PACA statutory trust. Fresh Express submits this letter in support of modifying the regulations of the Perishable Agricultural Commodities Act as it relates to clarifying EDI invoicing practices.

As a manufacturer and distributor of fresh fruits and vegetables, it is imperative when invoicing electronically that licensees be provided coverage under the statutory trust in the same manner of protection afforded through traditional paper invoices. When sending paper invoices, the PACA Trust language (*The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received*) is preprinted on our invoices, in accordance with the regulations, thus allowing the company to be trust protected.

The regulations need to be changed to adapt to the evolving industry practices and provide protection to shippers, manufacturers, and distributors when invoicing through EDI.

Therefore, Fresh Express is in complete support of modifying the regulations to protect shippers, manufacturers and distributors when electronically invoicing for fresh fruits and vegetables by allowing coverage under the statutory trust on all EDI transmissions so that it is mandatory and not discretionary for the buyer to accept. Thank you for your consideration.

Respectfully submitted,
Fresh Express Incorporated

Michael P. Moser
Corporate Counsel